

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. NO.188 of 2004

DATE OF DECISION:09.11.2006

Parbhu Petitioner
versus

State of Haryana and others Respondents

CORAM:- HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Mr.R.D. Yadav, Advocate for the petitioner
Mr.R.S.Kundu, Addl.A.G., Haryana
Mr.N.S. Shekhawat, Advocate
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JUDGMENT:

Gram Panchayat of village Mohammadpur Hamid Khan, Tehsil Narnaul, filed an application under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961, for eviction of the present petitioner on the ground that he had encroached upon an area measuring 0 Kanal - 18 Marlas which was a gair mumkin rasta sar-e-aam. The Assistant Collector, Narnaul, himself visited the spot and got the measurement done from Halqa Kanungo and the Revenue Patwari in the presence of the petitioner and found that the earlier report of the Local Commissioner, which held the petitioner to have encroached upon the thoroughfare was correct and accordingly, ordered the eviction of the petitioner.

The petitioner challenged the order passed by the Assistant Collector before the Collector who also upheld the aforementioned order. It is against

these orders the present writ petition has been filed. Counsel for the petitioner contends that proper demarcation was not done before holding that the petitioner has encroached upon any area, which falls in rasta.

A perusal of the impugned orders clearly shows that Halqa Kanungo had been appointed as Local Commissioner. He vide his report dated 17.12.2002 found that the petitioner has encroached upon the land by constructing wall and house in the area measuring 121 square feet and 40 square feet of passage No.205. A spot inspection was also done by the Assistant Collector, Narnaul himself in the presence of the petitioner and the respondents and illegal possession of the petitioner was found on the land in question.

In view of the above, as the petitioner has encroached upon the public 'rasta', which is used by the inhabitants of the village, he has rightly been ordered to be evicted from the same. We find no merit in the writ petition and the same is dismissed.

**(ASHUTOSH MOHUNTA)
JUDGE**

November 09, 2006
pc

**(NIRMAL YADAV)
JUDGE**